

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MERLE BROWN,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

Case No. 1:05-CV-274

Hon. Richard Alan Enslen

JUDGMENT

Plaintiff Merle Brown, through counsel, has objected to United States Magistrate Judge Ellen S. Carmody's Report and Recommendation of April 26, 2006, which recommended that the decision of the Commissioner of Social Security denying Disability Insurance Benefits and Supplemental Security Income be affirmed. This Court reviews the decision to determine whether it is supported by substantial evidence. 42 U.S.C. § 405(g); *Heston v. Comm'r of Soc. Sec.*, 245 F.3d 528, 534 (6th Cir. 2001).

Plaintiff's Objections reiterate arguments already raised and properly analyzed in the Magistrate Judge's thorough 14-page Report. As stated therein, there was more than substantial evidence to support the Administrative Law Judge's conclusion that Mr. Brown was not disabled either by his seizures or by fatigue associated with the seizure condition. Although Plaintiff's use of a generic form of Dilantin did cause him fatigue, this was a temporary condition which stopped after Plaintiff resumed use of Dilantin. (Admin. Tr. ("Tr.") 199-202.) The seizure condition was not so severe as to cause excessive absenteeism. (Tr. 228.) While the use of Dilantin for seizures

did limit Plaintiff from engaging in certain kinds of occupations involving dangerous machinery, heights and activities involving a high degree of concentration (Tr. 193), the medical testimony otherwise supported that Plaintiff could perform a significant range of medium work category jobs. (Tr. 233-34, 149-56.) The proper vocational testimony showed there to be a large number of jobs—29,500—which could be performed by Plaintiff consistent with his limitations— including jobs for unskilled stock clerks, hand packers, bench assemblers, and sorters. (Tr. 239-41.) In short, there was substantial testimony supporting that Plaintiff’s medical condition did not disable him from performing a significant number of jobs in the national economy.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Merle Brown’s Objections (Dkt. No. 9) are **DENIED**, the Report and Recommendation (Dkt. No. 8) is **ADOPTED**, and the decision of the Commissioner of Social Security is **AFFIRMED**.

DATED in Kalamazoo, MI:
May 22, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE